

Before the Federal Communications Commission

Washington, D.C. 20554

In the matter of

Spectrum Needs of Emergency Response Providers)	FCC 05-80
)	
Input Required for FCC Report Mandated by the)	WT Docket No. 05-157
Intelligence Reform and Terrorism Prevention Act)	
of 2004)	

Comments of the Commonwealth of Pennsylvania,

Office of Public-Safety Radio Services

Introduction

The Commonwealth of Pennsylvania ("Com PA"), through its Office of Public-Safety Radio Services (OPRS) operates a statewide first responder radio network as a licensee of the Federal Communications Commission ("FCC" or "Commission") in the 800 MHz NPSPAC band. Com PA currently has deployed over 250 sites, with planned expansion to over 400 sites to complete the coverage necessary to provide mobile service to the first responder agencies. When fully complete, this system will serve law enforcement, fire suppression, medical services, and other ancillary operations in support of first response to emergency situations.

Com PA welcomes the opportunity to respond to the inquiry concerning the sufficiency of spectrum for first responders as requested in WT Docket 05-157.

Summary

The Commission's 700 band allocation policy relies on pre-September 11, 2001 criteria that have been significantly altered during the ensuing years. The new and additional responsibilities of homeland security fall initially on first responders. The critical needs of radio communications have escalated as the responsibilities to protect the citizenry have increased.

Com PA understands that as part of the Intelligence Reform and Terrorism Prevention Act of 2004,¹ Congress included a non-binding resolution calling on lawmakers to address clearing the 700 MHz spectrum by the end of 2005. Com PA believes strongly that Congress should provide an additional allocation of spectrum in the 700 MHz band for emergency response provider communications and therefore opposes auctioning this spectrum. This Commission should heed the 9/11 Commission's recommendation (cited in the Request for Comments, footnote 2) to secure more spectrum for public safety. This spectrum should not be sacrificed for additional auction dollars. The Commission should report to Congress that our nation's first responders deserve priority to this spectrum to the degree necessary to ensure that the public is properly protected and that spectrum is adequately available for this purpose.

These comments will focus in Section I on the problems associated with the current allocation of 24 MHz and the transition to digital television. Section II urges the Commission to consider making more of the 700 band available for public

¹ Intelligence Reform and Terrorism Prevention Act of 2004, Pub.L. 108-458, 118 Stat. 3638 (2004).

safety to enhance interoperability. Section III points out the problems associated with other spectrum that the Commission has made available for public safety. Section IV comments on the use of commercial wireless technologies to satisfy first responders' communications needs.

I. 700 MHz Allocations

The Commission has allocated 24 MHz of spectrum from the TV channel 60-69 spectrum range for the exclusive use of public safety providers. The transition to digital television (DTV) in the lower portion of the broadcast spectrum has clouded the usefulness of this spectrum. Providing spectrum and then withholding authorization to use the spectrum does not solve public safety first responder communication requirements. While the Commission and Congress have proposed several methods to promote TV relocation, the public safety community still does not have a date certain when access to this new spectrum will be provided in the spectrum-starved metropolitan areas of the country. Com PA has unique problems in the Philadelphia area, where TV broadcasting in DTV has been allocated within the channel 60-69 range as part of a two-step process. The relocation of two TV stations from DTV operation in channel 60-69 can only occur after analog broadcasting is terminated and additional lower TV channels are available. NCC Regional Planning Committees in the Com PA areas (NCC Regions 36 and 28) have been reluctant to meet and plan with the future so uncertain.

II. The Need for Additional 700 MHz Allocations

The Commission has the unique and rare opportunity to provide public safety first responders, in both government and critical infrastructure arenas, with the communication spectrum resources needed in order to better protect life and property. In its 1996 report to the Commission,² the Public Safety Wireless Advisory Committee (PSWAC) urged that 25 MHz of spectrum should be made available to public safety by the year 2001, and that an additional 70 MHz of spectrum should be made available by the year 2011. The PSWAC Report did not consider the extraordinary needs that resulted from the increased homeland security efforts after September 11, 2001.

The 700 MHz band is a means by which the public safety system's use can be expanded to local governments (i.e. counties and townships), and is particularly suited to a statewide system like that of Com PA. Without this future growth, expansion into and access for local government and the concurrent benefit to local public safety is placed at risk. Consequently, any future plan for a truly statewide system, which includes full local government access and interoperability, is not possible without access to more of the 700 MHz band.

The Commission has allocated only 24 MHz of dispatch and operations spectrum to public safety, and this allocation contains conditions that prohibit use of the spectrum through 2006 and beyond. Some areas of the country have already exhausted the available spectrum (not including the reserve spectrum held by the

² Final Report of the Public Safety Wireless Advisory Committee, September 11, 1996 (the "PSWAC Report").

Commission) at 700 MHz through pre-allocation planning. This leaves nothing for future growth or for other needs that constantly arise in the course of providing for the safety of the public.

The Commission should halt the proposed auction of the remaining 36 MHz of spectrum available at 700 MHz and reallocate this valuable resource to the identified needs for first responders. The allocation of this resource could solve interoperability issues between the federal homeland security response agencies, state and local emergency response agencies , and critical infrastructure response entities. Com PA proposes that the 36 MHz be divided as:

10 MHz additional public safety allocation to state and local internal operations;

15 MHz allocation to critical infrastructure agencies for internal operations;

5 MHz additional allocation for state use licensees; and

6 MHz allocation to federal homeland security agencies internal operations.

This allocation of spectrum for internal communications will ensure that a baseline is established for these agencies to intercommunicate on the suite of interoperable channels currently established at 700 MHz. Interoperability between these agencies is critical for effectively responding to natural disasters and terrorist attacks.

III. Concerns Regarding Other Spectrum Made Available

In addition to the 24 MHz of prime spectrum allocated to public safety, the Commission has identified in the Request for Comments other spectrum that is credited toward the needs of first responders. However, each of these is problematic.

The allocation of 50 MHz of 4940-4990 MHz spectrum does not solve the critical needs of public safety. This spectrum has very short communication distances and is of limited value. The spectrum is allocated on a shared basis without any guarantee of service reliability. While providing some possibility for broadband wireless data, the spectrum has limited dispatch capability and is not considered universal in coverage.

The allocation of TV channel 16 to the City of New York, while a worthwhile endeavor, only benefits a very limited geographic area. We understand that the City has already allocated all spectrum in this band and nothing remains for future needs.

In the Request for Comments, the Commission stated that rebanding affords the public safety community access to 4.5 MHz of spectrum at 800 MHz that Nextel will relinquish. While theoretically a good addition to the public safety allocation, in reality the relinquished spectrum does not provide clear channels. The numbers of channels available in any geographic area are not consistent, and the channels have other licensees that limit the licensing possibility under the Commission's exclusive licensing criteria. These channels will not be available for licensing until the end of the rebanding process, which poses additional risks if the aggressive time frame of three years for rebanding is significantly lengthened.

IV. The Use of Commercial Communication Providers

Generally, public safety agencies do not rely on commercial providers for their primary communications networks. This arises from the agencies' need to control access, security, redundancy and reliability. Public safety has moved toward consolidated communications systems, such as the statewide system that is currently in operation and under construction by Com PA. These systems, generally provided by a state or county, afford a consolidated and proprietary infrastructure that includes the political subdivisions and does not rely on private parties. This model is also employed or under development in New York State, Delaware and Vermont. These systems provide the economy of scale and spectral efficiency of a commercial operation, while maintaining system control under governmental authority. Com PA believes that this is the proper approach for consolidation of communications resources and spectrum, and therefore does not generally support the use of commercial wireless technologies.

Conclusion

Com PA believes that the Commission has made significant progress toward solving the spectrum needs of public safety first responders. However, these are but first steps. The recommendation in the PSWAC Report for a total of 95 MHz of spectrum is nowhere near being fulfilled. This estimate, produced prior to the 9/11 attack, may today actually underestimate homeland security needs. Com PA believes allotting the remaining 36 MHz of 700 MHz spectrum to first responders as detailed in these comments will better serve the public's important safety interests.

Com PA strongly endorses the benefits conferred by additional spectrum for interoperability between federal homeland security, state and local first responders, and critical infrastructure agencies.

In addition, Congress and the Commission must swiftly and decisively solve the difficulties associated with 700 MHz TV clearing. Public safety entities cannot continue to be held captive to the lack of progress toward conversion to DTV in the United States. Television manufacturers and importers must be compelled to include DTV tuners on an accelerated timeline, and DTV converters should be made available at low cost to existing analog TV consumers. As long as analog TV receivers continue to be sold in mass volume, the conversion to DTV will be delayed, and public safety use of the spectrum will be compromised.

Com PA urges Congress and the Commission to act decisively in support of the nation's first responders, and to dedicate sufficient spectrum resources to public safety.

Respectfully submitted,

THE COMMONWEALTH OF
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